

# HOUSE BILL No. 1265

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-18-2; IC 16-21-12.

**Synopsis:** Designation of caregiver for patients. Requires a hospital to provide each admitted patient or the patient's legal guardian with an opportunity to designate a caregiver within a specified time. Specifies documentation of whether the patient designates a caregiver. Requires the hospital to do the following: (1) Request written consent to release medical information to the designated caregiver. (2) Record certain information concerning the designated caregiver in the patient's medical chart. (3) Consult with the designated caregiver before release of the patient. (4) Prepare a discharge plan and include specified information. (5) Provide instructions to the designated caregiver concerning after care. (6) Inform the designated caregiver of the patient's discharge or transfer at least four hours before the discharge is to occur. (7) Document certain information concerning the designated caregiver and the instructions provided concerning after care.

**Effective:** July 1, 2015.

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**Zent, Clere**

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January 13, 2015, read first time and referred to Committee on Public Health.

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First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1265

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A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 16-18-2-9.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2015]: **Sec. 9.5. "After care", for purposes of IC 16-21-12, has**  
4 **the meaning set forth in IC 16-18-21-1.**

5       SECTION 2. IC 16-18-2-48.7 IS ADDED TO THE INDIANA  
6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
7 [EFFECTIVE JULY 1, 2015]: **Sec. 48.7. "Caregiver", for purposes**  
8 **of IC 16-21-12, has the meaning set forth in IC 16-21-12-2.**

9       SECTION 3. IC 16-21-12 IS ADDED TO THE INDIANA CODE  
10 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2015]:

12       **Chapter 12. The Caregiver Advise, Record, and Enable (CARE)**  
13 **Act**

14       **Sec. 1. As used in this chapter, "after care" means any**  
15 **assistance provided by a caregiver to a patient after the patient's**



1 discharge from a hospital. The assistance may include any of the  
2 following:

- 3 (1) Assisting with basic activities of daily living.
- 4 (2) Assisting with instrumental activities of daily living.
- 5 (3) Carrying out medical or nursing tasks, including:
  - 6 (A) managing wound care;
  - 7 (B) assisting in administering medications; or
  - 8 (C) operating medical equipment.

9 Sec. 2. As used in this chapter, "caregiver" means any  
10 individual who:

- 11 (1) is designated as a caregiver by a patient;
- 12 (2) provides after care assistance to the patient; and
- 13 (3) lives in the patient's residence.

14 The term may include a relative, partner, friend, or neighbor who  
15 has a significant relationship with the patient.

16 Sec. 3. (a) A hospital shall provide each patient or the patient's  
17 legal guardian with at least one (1) opportunity to designate at least  
18 one (1) caregiver not later than twenty-four (24) hours after the  
19 patient's admittance to the hospital and before the patient's  
20 discharge from the hospital or transfer to another facility.

21 (b) If a patient is unconscious or otherwise incapacitated at the  
22 time the patient is admitted to the hospital, the hospital shall  
23 provide the patient or the patient's legal guardian with an  
24 opportunity to designate a caregiver not later than twenty-four  
25 (24) hours after the patient's recovery of the patient's  
26 consciousness or capacity.

27 (c) If a patient or the patient's legal guardian declines to  
28 designate a caregiver, the hospital shall document the refusal in the  
29 patient's medical record.

30 (d) If a patient or the patient's legal guardian designates an  
31 individual as a caregiver, the hospital shall do the following:

- 32 (1) Request written consent by the patient or the patient's  
33 legal guardian to release medical information to the patient's  
34 designated caregiver following the hospital's procedures for  
35 releasing personal health information in compliance with  
36 federal and state laws.
- 37 (2) Record the following information in the patient's medical  
38 record concerning the designated caregiver:
  - 39 (A) The name, address, and telephone number of the  
40 designated caregiver.
  - 41 (B) The relationship between the patient and the  
42 designated caregiver.



(e) If a patient or the patient's legal guardian declines to allow the release of medical information to the patient's designated caregiver under subsection (d)(1), the hospital is not required to provide any of the following:

(1) Notice to the designated caregiver under section 4 of this chapter.

(2) Information contained in the patient's discharge plan under section 5 of this chapter.

**Sec. 4.** A hospital shall notify the patient's designated caregiver of the patient's discharge or transfer to another hospital or facility licensed by the state department as soon as possible after the patient's physician issues a discharge order but not later than four (4) hours before the patient's actual discharge or transfer to another hospital or facility.

**Sec. 5. (a)** As soon as possible but not later than twenty-four (24) hours before the patient's discharge from the hospital, the hospital shall:

(1) consult with the designated caregiver and the patient concerning the caregiver's capabilities and limitations;

(2) issue a discharge plan that describes the patient's after care needs while the patient is at the patient's residence; and

(3) provide the designated caregiver with instruction in all after care tasks described in the discharge plan.

(b) The discharge plan required in subsection (a)(2) must include the following:

(1) The name and contact information of the caregiver designated by the patient or the patient's legal guardian under this chapter.

(2) A description of the after care tasks necessary to maintain the patient's ability to reside at home, taking into consideration the capabilities and limitations of the designated caregiver.

(3) Contact information for any health care, community resources, and long term services and supports that are necessary to successfully carry out the patient's discharge plan.

(c) The instructions required in subsection (a)(2) must include the following at a minimum:

(1) A live demonstration of the after care tasks performed by a hospital employee or individual with whom the hospital has contracted to perform the tasks, in accordance with the hospital's requirements to provide language access services



under state and federal law.

(2) An opportunity for the patient and the designated caregiver to ask questions about the after care tasks.

(3) Answers to the questions asked under subdivision (2) in accordance with the hospital's requirements to provide language access services under state and federal law.

(d) The hospital shall document the following in the patient's medical record after any instructions are provided to the patient and the designated caregiver under this section:

(1) The date and time the instruction is given.

(2) The type of instruction given and the contents of the instruction.

Sec. 6. The state department may adopt rules under IC 4-22-2 necessary to implement this chapter, including rules specifying the content and scope of any instruction provided to a patient and caregiver under this chapter.

Sec. 7. (a) Nothing in this chapter shall be construed to interfere with the rights of a health care representative appointed under IC 16-36-1.

(b) Nothing in this chapter shall be construed to create a private right of action against a hospital, a hospital employee, or an individual with whom a hospital has a contractual relationship, or to otherwise supersede or replace existing rights or remedies under any other provision of law.

